

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WORTHY GLOBAL LIMITED,

Index No.

Plaintiff,

-against-

COMPLAINT

MARCRAFT CLOTHES, INC. d/b/a MARCRAFT
APPAREL GROUP,

Defendant.

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Plaintiff, WORTHY GLOBAL LIMITED ("Plaintiff" or "Worthy"), by its attorneys Harrington, Ocko & Monk, LLP, alleges the following as its Complaint against the Defendant MARCRAFT CLOTHES, INC. d/b/a MARCRAFT APPAREL GROUP ("Marcraft"), or ("Defendant").

NATURE OF THE ACTION

1. Worthy seeks money damages against Defendant for breach of contract, unjust enrichment, account stated, goods sold and delivered, conversion arising from Defendant's failure to make payment on forty-three (43) invoices for men's clothing goods delivered to Marcraft totaling \$2,882,677.55.

PARTIES

2. At all times material, Worthy was and is a Hong Kong corporation with its principal place of business at 9th Floor York House, The Landmark, 15 Queen's Road Central, Hong Kong.

3. Worthy is in the business of exporting and selling garment products in international markets, in addition to other investing, trading and service activities world-wide.

4. Upon information and belief, Marcraft is a corporation organized and existing under the laws of the State of New York, with its place of business located at 725 Fifth Avenue, 18th Floor, New York, NY 10022.

5. Upon information and belief, Marcraft is a corporation organized and existing under the laws of the State of New York, with its place of business located at 1350 Avenue of the Americas, 33rd Floor, New York, NY 10019

6. At all times material, Marcraft was engaged in the business of selling Nautica and Ben Sherman brands men's coats, trousers and outerwear, as lawful licensee pursuant to certain license agreements, as well as other certain private label garments.

JURISDICTION AND VENUE

7. The Court has subject matter jurisdiction over this action based on diversity of citizenship pursuant to 28 U.S.C. § 1332. The matter in controversy exceeds, exclusive of interest and costs, \$75,000.

8. Venue is proper in the United States District Court of the Southern District of New York under 28 U.S.C. § 1391 because Marcraft has its principal place of business, conducts substantial business in this district, at all times relevant to this action, a substantial part of the events or omissions giving to the claim occurred, in this district.

FACTUAL BACKGROUND

9. Around and between March 18, 2019 and October 12, 2019, Marcraft ordered and purchased men's clothing goods delivered to Marcraft (the "Goods") of various styles from Worthy, as reflected on 43 invoices, which were sent by Worthy to Marcraft.

10. Around and between March 27, 2019 to October 12, 2019, in response to Marcraft's orders, Plaintiff shipped the Goods to Marcraft, per Marcraft's instructions, and the

Goods were received, accepted, and retained by Marcraft.

11. Marcraft failed to make payment for the Goods, with payment due within 60 days after the goods specified in each invoice were shipped.

12. The outstanding and unpaid amount due by Marcraft on the Goods shipped by Worthy is \$2,882,677.55, plus related demurrage, storage, and other costs.

13. Worthy provided to Marcraft forty-three (43) invoices, reflecting an outstanding balance owed to Worthy in the amount of \$2,882,677.55 (the “Invoices”).

14. By executed letter dated December 31, 2019, Marcraft, through its President Jeff Brody, admitted that it owed Worthy \$2,882,677.55 for the Goods ordered, shipped and received by Marcraft pursuant to the Invoices and advised that Marcraft was unable to pay at this time. A copy of the December 31, 2019 Letter with its annexed spreadsheet of the Invoices admittedly owed by Marcraft for the Goods totaling \$2,882,677.55 is annexed hereto as Exhibit A.

AS AND FOR A FIRST CAUSE OF ACTION

(Breach of Contract)

15. Plaintiff repeats and realleges Paragraphs “1” through “14” as if set forth in full herein.

16. Worthy and Marcraft entered into an Agreement whereby from March 18, 2019 through October 12, 2019, Marcraft ordered and purchased the Goods of various from Worthy, as reflected on 43 invoices, which were sent by Worthy to Marcraft.

17. Worthy faithfully performed all of its obligations under the Agreement.

18. Marcraft breached the Agreement by failing to pay for the Goods ordered and received by Marcraft.

19. Marcraft has continued to breach the Agreement each month as it has failed to remit such payments to Worthy.

20. As a result of said breach, Worthy has been damaged in the amount of \$2,882,677.55, plus statutory interest, reasonable attorney's fees and costs of this action.

AS AND FOR A SECOND CAUSE OF ACTION

(Unjust Enrichment)

21. Plaintiff repeats and realleges Paragraphs "1" through "20" as if set forth in full herein.

22. Marcraft possesses, uses, and continue to enjoy the benefit of the Goods provided by Worthy at their Facility.

23. The fair and reasonable value of Marcraft's use, possession, and enjoyment of the Goods provided by Worthy is at least \$2,882,677.55.

24. For Marcraft to use the Goods provided by Worthy and benefit from them without paying for their fair and reasonable value would be unjust enrichment at the expense of the Worthy.

25. Accordingly, Worthy has been damaged in the amount of at least \$2,882,677.55, and continues to be damaged in this amount, and demands judgment in its favor and against Marcraft plus statutory interest, attorneys' fees, and costs.

AS AND FOR A THIRD CAUSE OF ACTION

(Quantum Meruit)

26. Plaintiff repeats and realleges Paragraphs "1" through "25" as if set forth in full herein.

27. Marcraft uses, possesses and enjoys the Goods provided by Worthy pursuant to the conditions of the Agreement and/or course of conduct between the parties.

28. Worthy has duly demanded payment from Marcraft on several occasions, but such demands have been refused.

29. Worthy is entitled to the reasonable value of its services under the doctrine of quantum meruit.

30. By reason of the foregoing, Worthy has been damaged, and continues to be damaged, in the sum of \$2,882,677.55, and demands judgment in favor of the Worthy and against Marcraft plus statutory interest, attorneys' fees, and costs.

AS AND FOR A FOURTH CAUSE OF ACTION

(Account Stated)

31. Plaintiff repeats and realleges Paragraphs "1" through "30" as if set forth in full herein.

32. Heretofore, Worthy has rendered statements of account to Marcraft.

33. Marcraft received such statements of account without timely objecting and, in fact, has admitted that the full outstanding balance of \$2,882,677.55 is owed to Worthy.

34. Worthy provided to Marcraft forty-three (43) invoices, as set forth in Exhibit A, reflecting an outstanding balance owed to Worthy in the amount of \$2,882,677.55.

35. An account was therefore stated between the Worthy and Marcraft in the amount of \$2,882,677.55.

36. As a result of the foregoing, Worthy has sustained \$2,882,677.55 in damages and is therefore entitled to an award of a money judgment in its favor, and against Marcraft for \$2,882,677.55, plus statutory interest, attorneys' fees, and costs.

AS AND FOR A FIFTH CAUSE OF ACTION

(Goods Sold, Delivered, & Accepted)

37. Plaintiff repeats and realleges Paragraphs “1” through “36” as if set forth in full herein.

38. From March 18 2019 through October 12, 2019, Marcraft placed orders with Worthy for the specific Goods, set forth in the invoices annexed hereto as Exhibit A.

39. Worthy delivered the Goods to Marcraft pursuant to Marcraft’s direction in the shipments set forth in Exhibit A.

40. Each shipment and its corresponding invoice represents a separate agreement for Marcraft to purchase the goods described in the invoice and delivered by Marcraft.

41. The Invoices for the delivered Goods list the invoice numbers, the order dates, the quantities and types of goods ordered and shipped, descriptions of the goods, prices, the method of shipment, the addresses for shipping, the F.O.B. points, and other terms of sale.

42. Marcraft accepted the delivered Goods.

43. In total, the outstanding balance owed for the delivered Goods is \$2,882,677.55.

44. Marcraft made no objections to the delivered Goods that were not returned.

45. Marcraft made no objections to the Invoices.

46. Marcraft has never paid Worthy for the delivered Goods.

47. Worthy made repeated demands for payment of the outstanding balance for the delivered Goods.

48. No part of that sum of \$2,882,677.55 has been paid, although due and owing Worthy and despite Marcraft admitting that such sum is due and owed to Worthy.

49. Worthy has thereby been damaged in the amount of \$2,882,677.55, plus statutory interest, attorneys' fees, and costs.

AS AND FOR A SIXTH CAUSE OF ACTION

(Conversion)

50. Plaintiff repeats and realleges Paragraphs "1" through "49" as if set forth in full herein.

51. For Marcrafft to use the Goods provided by Worthy without paying for its fair and reasonable value is conversion.

52. As a result of the foregoing, Worthy has sustained \$2,882,677.55 in damages and is therefore entitled to an award of a money judgment in its favor, and against the Marcrafft for \$2,882,677.55, plus interest, attorneys' fees, and costs.

WHEREFORE, Plaintiff demands that this Court order a judgment against Defendant on all causes of action in the amount of \$2,882,677.55 plus interest accruing from March 18, 2019, plus legal fees, together with other expenses of collection in an amount to be determined, costs, and such other and further relief that this Court deems just and proper.

Dated: White Plains, New York
April 27, 2020

HARRINGTON, OCKO & MONK, LLP

s/Michael W. Freudenberg

By: _____
Michael W. Freudenberg
Attorneys for Plaintiff
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TO:

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